

Mark A. Berman, Esq.
**HARTMANN DOHERTY ROSA
BERMAN & BULBULIA LLP**
433 Hackensack Avenue, Suite 1002
Hackensack, New Jersey 07601
t: 201-441-9056
*Counsel of Record for Intervenor
Express Scripts, Inc. & Accredo Health Group, Inc.*

JOHNSON & JOHNSON HEALTH CARE
SYSTEMS, INC.,

Plaintiff,

– vs –

SAVE ON SP LLC,

Defendant.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Civil No. 22-2632 (JKS) (CLW)

**DECLARATION OF MARK BERMAN
IN SUPPORT OF INTERVENORS' OPPOSITION TO
PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

I, Mark A. Berman, Esq., being of sound mind and due age, declare as follows:

1. I have personal knowledge of the matters addressed in this declaration.
2. I am a partner at the law firm of Hartmann Doherty Rosa Berman & Bulbulia LLP and admitted to practice in the District of New Jersey.
3. This declaration is submitted in support of Intervenor Express Scripts, Inc. ("Express Scripts") and Accredo Health Group, Inc.'s ("Accredo") Opposition to Plaintiff's Motion for Leave to File Amended Complaint.
4. Attached as Exhibit A is a true and correct copy of an excerpt from the activity log maintained by Express Scripts for Johnson and Johnson ("J&J").

5. Attached as Exhibit B is a true and correct copy of a June 15, 2017, email from Jeffrey S. Gardner at Express Scripts to Ray Macknowski at J&J.

6. Attached as Exhibit C is a true and correct copy of an August 30, 2017 PowerPoint Presentation entitled, “Your Collaborative Planning Guide.”

7. Attached as Exhibit D is a true and correct copy of notes taking during the August 30, 2017 meeting between Express Scripts and J&J.

8. Attached as Exhibit E is a true and correct copy of a February 14, 2018, email from Frank Cathers at Express Scripts to Ray Macknowski at J&J.

9. Attached as Exhibit F is a true and correct copy of the transcript of the August 10, 2023 oral argument before the U.S. District Court for the Eastern District of Missouri.

10. Attached as Exhibit G is a true and correct copy of the March 8, 2024 letter from Accredo’s counsel, Jeremy Sternberg, to JJHCS’s counsel, Harry Sandick seeking to meet and confer regarding cost-shifting under Federal Rule of Civil Procedure 45.

11. Attached as Exhibit H is a true and correct copy of the December 6, 2021 transcript of the SaveOn IPBC Video Training provided by JJHCS as an exhibit to its Motion to Compel directed at Express Scripts in the Eastern District of Missouri on May 22, 2023.

12. Attached as Exhibit I is a true and correct copy of Adam J. Fein, *Latest Express Scripts Data: Slow Drug Spending Growth—And Big Plan Savings from Manufacturer Copay Programs*, Drug Channels (Feb. 24, 2020), <https://www.drugchannels.net/2020/02/latest-express-scripts-data-slow-drug.html>.

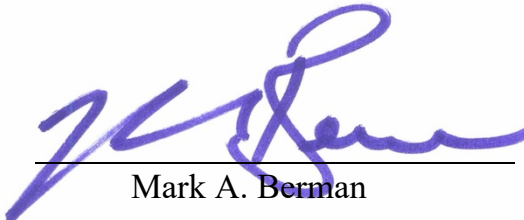
13. Attached as Exhibit J is a true and correct copy of Adam J. Fein, *Why Do CVS And Express Scripts Rely on Secretive Private Companies to Run Their Copay Maximizer Programs?*, Drug Channels (May 21, 2020), <https://www.drugchannels.net/2020/05/why-do-cvs-and-express-scripts-rely-on.html>.

14. Attached as Exhibit K is a true and correct copy of Meghan Pasicznyk, Evernorth Health Servs., *Copay Assistance Strategy Reduces Financial Burdens for Plans and Patients* (Oct. 7, 2021), <https://www.evernorth.com/articles/reduce-costs-for-health-care-plans-with-copay-program-assistance>.

15. Attached as Exhibit L is a true and correct copy of the February 23, 2024 letter from JJHCS's counsel, Harry Sandick, to Accredo's counsel, Andrew Solinger, seeking an additional custodian.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 8, 2024



Mark A. Berman